



COMDTINST 1740.7A

OCT 21 1997

COMMANDANT INSTRUCTION 1740.7A

Subj: COAST GUARD EMPLOYEE ASSISTANCE PROGRAM

Ref: (a) Coast Guard Personnel Security Program, COMDTINST M5520.12
(b) Department of Defense Personnel Security Questionnaire, DD Form 398, Mar 90

1. PURPOSE. This Instruction establishes policy and prescribes procedures for the administration of the contracted portion of the Coast Guard Employee Assistance Program (EAP). It also clarifies the confidentiality of EAP records, statements made to professional clinicians, and policy concerning military and civilian security clearances.
2. ACTION. Area and District Commanders, Commanders of Maintenance and Logistics Commands and Commanding Officers of Headquarters units, Assistant Commandants for Directorates, Chief Counsel, and Special Staff Offices at Headquarters shall ensure compliance with the provisions of this directive.
3. DIRECTIVES AFFECTED. Commandant Instruction 1740.7 is cancelled.
4. BACKGROUND. As part of the Work-Life Initiative, the Coast Guard has adopted an EAP to provide a broad range of assessment and confidential short-term problem solving sessions to eligible beneficiaries which include all active duty, civilian and NAFA employees and their respective family members. Currently, Commandant (G-WPW) is responsible for direct oversight, coordination and administration of the EAP. To facilitate the program, a professional firm (hereinafter EAP contractor) has been contracted through Federal Occupational Health. The EAP contractor provides individual and family problem assessment, short-term problem solving and referral services. Concerns can take on many forms such as stress, health, marriage, grief, financial, gambling, substance abuse, tragedies, family/relationships, occupational adjustment, child and elder care referrals, and more.

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5. DISCUSSION. The Coast Guard recognizes that our personnel and their families are a most valuable resource. We further recognize that unsolved personal and workplace problems often have incapacitating effects leading to lost productivity and costly intervention. As such, the Coast Guard has adopted the EAP to help our people pro-actively address their concerns and manage problems throughout their careers. The EAP provides a confidential means for eligible beneficiaries to improve life skills or obtain help before a concern becomes a crisis. The Coast Guard, as an organization, also gains by maintaining a more productive work force which is focused on mission performance.
6. CONTRACTED SERVICES. The EAP contractor offers eligible beneficiaries assistance in four distinct categories: Individual Services, Supervisor Consultation, Mandatory Referral and Critical Incident Stress Debriefings.
 - a. Individual Services: Individuals and their immediate family members may contact the EAP directly using the toll-free telephone number to schedule an appointment. These services include assessment, short-term problem solving, and referral services for persons needing ongoing counseling or care.
 - b. Supervisor Consultation: Supervisors may contact the EAP at any time for assistance or advice in identifying troubled or problem employees, and methods for effective problem resolution.
 - c. Mandatory Referral: A supervisor may refer an employee to the EAP for consultation when their job performance fails to improve. This resource is not intended to replace existing methods of documenting or reconciling performance deficiencies, but may be used to supplement such action. If this type of referral is used, the Coast Guard employee must sign a release form that authorizes the EAP contractor to confirm for concerned commands that appointment(s) were met. To coordinate this type of referral, contact the contractor at 1-800-222-0364.
 - d. Critical Incident Stress Debriefings: A critical incident refers to any traumatic event that occurs in the workplace or affects the work group. These may include natural disasters, serious injury or accidents, and suicide or homicide. The EAP contractor can provide on-site counseling support following a critical incident. Request for CISDs should be coordinated with the unit's designated Work-Life staff.
7. PROCEDURES AND POLICY.
 - a. To use the program, eligible beneficiaries may access the EAP directly by calling 1-800-222-0364 to schedule a consultation, the EAP contractor customer service representatives will require the caller's name, a brief description of needed assistance, and a telephone number at which a local counselor may contact the caller. The EAP assessment and short-term problem solving are provided at no cost to the employee or immediate family. However, should an individual choose to pursue a referral based on

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the counselor's assessment, associated costs are the individual's responsibility.

- b. **Program limitations:** The primary function of the EAP is to provide a means of assessing personal and job-related problems and providing a treatment plan. When appropriate, short-term problem solving (up to six sessions) is available. Generally, the initial three sessions are reserved for assessment or identification of a referral source. Additional sessions, when clinically appropriate, would be classified as short-term problem solving. The program is not intended for long-term mental health treatment.
- c. **Referrals:** Employees and family members who are assessed as requiring ongoing treatment beyond the EAP have a variety of options from which to choose. Active duty members are highly encouraged to seek extended care beyond the EAP through the existing military health care system. This may include Military Treatment Facilities (MTF's) or Non-Federal Medical requests. Family members may be able to seek follow-on care through a MTF, private health insurance plan or community resources at a reduced cost. Family members may also be eligible for health care coverage through the CHAMPUS health benefits plan on a cost sharing basis. A Coast Guard Health Benefits Advisor (HBA) or Health Education Specialist (HES) should be consulted prior to obtaining care through CHAMPUS to determine eligibility. Civilian employees and families normally will access their private health plans for ongoing treatment. Attending counselors will assist the employee in identifying an appropriate referral source. The Work-Life staff EAP coordinator may also provide an extensive listing of available resources. This includes but is not limited to community resources, county and state facilities, military treatment facilities, and DOD family service centers.
- d. **Policy Concerning Confidentiality.** The Coast Guard views the EAP as an important tool to help both employees and commands address daily concerns in the workplace and private life. In this light, the Coast Guard fully intends for eligible beneficiaries using the EAP to be able to do so in confidence. Therefore, information provided to EAP counselors and resulting records will be treated as confidential to the maximum extent possible under the law. (Information includes that contained in EAP contractor records as well as oral statements made to counselors.) All information, except statistics where individual identity cannot be determined, will be fully protected within the rules and regulations set forth by the Privacy Act, Freedom of Information Act (FOIA), applicable rules of evidence, and the policy set forth below. The extent to which EAP records and information provided by employees may be disclosed is as follows:
 - (1) **Public disclosure:** Under the Privacy Act and FOIA, EAP records are considered "agency records" within the possession and control of the Federal Occupational Health (FOH) Division of the U.S. Public Health Service. As such, EAP records are afforded the legal protections of the Privacy Act, FOIA, and other applicable federal statutes. With limited exceptions, EAP records are confidential between the EAP contractor and the employee. Such records generally are exempt from disclosure to the public under FOIA, the Privacy Act, and other applicable federal statutes.

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However, EAP records may be disclosed:

- (a) with the written consent of the employee,
 - (b) to appropriate authorities when the employee commits or threatens to commit a crime or other act that could result in danger to himself or others,
 - (c) to appropriate agencies* when they relate to instances of child abuse or neglect, or family violence,
 - * **As a point of clarification, the term appropriate agencies in paragraph d.(1)(c) or appropriate authorities in (d).(1)(b) includes the Coast Guard for purposes of criminal behavior including , but not limited to, spouse abuse, child abuse, and the risk of harming either self or others**
 - (d) pursuant to the order of a court of competent jurisdiction, including a subpoena if signed by a judge,
 - (e) to medical personnel in an emergency, or
 - (f) to a new EAP contractor after the old contractor has surrendered the records to FOH.
- (2) Intra-governmental uses: Pursuant to established administrative procedures, EAP records may be subject to disclosure for uses within the United States government as follows:
- (a) to the Department of Justice (DOJ) for the adjudication of a claim for or against the U.S.,
 - (b) to DOJ for preparation for litigation involving the United States or a federal employee acting within the scope of his employment,
 - (c) to appropriate civilian or military authorities when the employee commits or threatens to commit a crime or other act that could result in a danger to himself or others, or when the employee, due to the nature of his/her duties, otherwise poses a threat to the safety of others,
 - (d) upon written request of the Coast Guard, to trial counsel, Coast Guard Intelligence, or other criminal investigators for civil or criminal law enforcement activity. However, in courts-martial, the information obtained may be used only to impeach or rebut evidence presented by an accused (the subject of the record),
 - (e) to direct supervisors in a manner limited to confirming that an employee kept an appointment.

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- e. Policy concerning military and civilian security clearances: Military and civilian personnel who are required to possess a security clearance in the performance of their duties are required to follow criteria outlined in COMDTINST M5520.12, Coast Guard Personnel Security Program. Contact and use of the EAP in and of itself does not require disclosure. However, should a member receive mental health counseling as identified in references (a) and (b) from an EAP referral source or any other counseling source, the member must report such treatment in accordance with current directives. Assessment, short-term problem solving, and referral information is not considered counseling for the purposes of completing reference (b).
8. EXAMPLES. The following examples are provided to assist beneficiaries with a better understanding of the aforementioned legal requirements and policies:
- a. During a divorce proceeding in a state court, a judge could issue an order to require that relevant EAP information regarding an employee's financial status be turned over to the court for consideration in the divorce proceeding. However, before the information would be turned over to the court, it would be referred to appropriate agency counsel for a determination as to validity and guidance as to how to respond.
 - b. An employee reveals marital infidelity during counseling under the EAP. When the spouse calls the EAP contractor seeking confirmation of the infidelity, the spouse will be denied such information.
 - c. A military member with a cocaine abuse problem who is counseled by the EAP can be court-martialed for drug use only if the government has other independent evidence of the drug use. However, if the accused chooses to use EAP records or information in his/her defense, then the government may use the records in its case. Also, if the military member testifies under oath or otherwise presents a defense, and EAP records or information are within the possession of the prosecution which show that the member is lying or that the defense has presented evidence which is contradictory to EAP records or information, the prosecutor may then present the EAP records to the court.
 - d. An employee reveals feelings of stress and job inadequacy during counseling. The supervisor will be denied access to the information.
 - e. During an interview with an EAP counselor, an employee states that he intended to batter his spouse and then kill himself. The EAP counselor must disclose this information to appropriate authorities.



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